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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ASSOCIATED PRESS, Plaintiff, - v.- UNITED STATES DEPARTMENT OF DEFENSE, Defendant.	ECF CASE DECLARATION OF DALE T. VITALE 05 Civ. 3941 (JSR)

DALE T. VITALE hereby declares, pursuant to 28 U.S.C. § 1746, as follows:

Associated Press v. United States Department of Defense Doc. 34

1. I am an Assistant Staff Judge Advocate with the United States Department of Defense ("DOD") currently assigned to the United States Southern Command with duty at Joint Task Force-Guantanamo, and stationed at the U.S. Naval Base, Guantanamo Bay, Cuba ("Guantanamo"). In that capacity, I am responsible for providing legal advice for the Joint Task Force-Guantanamo and United States Southern Command. I make this declaration to comply with the Court's Order dated September 26, 2005 (the "Order"). The statements in this declaration are based upon my personal knowledge and/or information obtained by me in the course of my official duties.

2. The purpose of this declaration is to summarize detainees' responses to the "Notice to Detainees" (the "Notice") that the Court ordered DOD to distribute to the

Guantanamo detainees at issue in the Associated Press's Freedom of Information Act suit against DOD. I am personally familiar with and coordinated the process of translating the Notice, distributing it to detainees, and collecting and tabulating their responses.

3. On October 14, 2005, Guantanamo personnel hand-delivered the Notice to 317 Guantanamo detainees. The 317 recipients represent those detainees whom DOD had identified as having given testimony to a Combatant Status Review Tribunal (CSRT), submitted a written statement to a CSRT, or given documents to their Personal Representative during the CSRT process, and who, as of October 14, 2005, were still being held by DOD at Guantanamo Bay. Each detainee received a copy of the Notice in English and in his native language.[1] In a cover sheet accompanying the Notice, which each detainee also received in English and in his native language, detainees were asked to return the Notice within seven days (i.e., by October 21, 2005) to a guard or mail delivery personnel. Those detainees whose native language is English received only an English-language copy of the Notice and cover sheet.

4. Detainees continued to return the Notice after October 21, 2005. As of October 27, 2005, a total of 108 detainees had returned the Notice. Their responses were as follows:

- 60 detainees indicated "Yes, I want the identifying information about myself released to the Associated Press;"
- 15 detainees indicated "No, I do not want the identifying information about myself released to the Associated Press;" and
- 33 detainees returned the Notice without indicating either yes or no.[2]

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1 The Notice had to be translated into seven languages to comply with the Order.

2 In four of these 33 returns, the Notice that was returned had markings on it other than an indication of yes or no. In two of those four cases, all the text of the Notice was stricken with lines or x's. In the other two, both the yes and no choices were indicated.

The remaining 209 detainees did not return the Notice. That number includes nine detainees who refused to accept the Notice when it was given to them and one detainee who destroyed the Notice when it was given to him. Eight of the sixty detainees who indicated yes have had their CSRT transcripts publicly filed in connection with their habeas petitions. Four of the fifteen detainees who indicated no have had their CSRT transcripts publicly filed in connection with their habeas petitions. See Declaration of Karen L. Hecker, dated June 30, 2005, at 3 n.1.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 28, 2005.

DALE T. VITALE